



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DISMISSED FOR LACK OF JURISDICTION: May 31, 2007

CBCA 185

PETERSEN EQUIPMENT FIRE & EMERGENCY SERVICES,

Appellant,

v.

DEPARTMENT OF THE INTERIOR,

Respondent.

Eric Petersen, Tehachapi, CA.

Stephen R. Palmer, Office of the Regional Solicitor, Department of the Interior,
Sacramento, CA, counsel for Respondent.

Before Board Judges **PARKER**, **HYATT**, and **McCANN**.

McCANN, Board Judge.

Eric Petersen, an employee of Petersen Equipment Fire & Emergency Services (Petersen Equipment), brought this appeal to the Department of the Interior (DOI) Board of Contract Appeals, a predecessor to this Board. Appellant seems to be attempting to get this Board to overturn a decision by the Department of Labor (DOL) on a claim for lost wages by Mr. Petersen. DOI has moved the Board to dismiss the appeal for lack of jurisdiction.

Facts

Petersen Equipment entered into contract CA-020-EQO-107 with the Bureau of Land Management (BLM) in July of 1990. Appellant's Case Evidence File, Exhibit 1. The contract called for the company to provide medical, communication, and rescue units and generators and light fixtures to assist in firefighting. *Id.*, Exhibit 5. On or about August 30, 1992, Eric Petersen sustained an injury while working under the contract when fuel splashed over his face and into his mouth. Mr. Petersen's injury occurred while he was functioning as an operator of the equipment specified in the contract. *Id.* On September 1, 1992, alleging that he was unable to work, he filed a claim for workers' compensation at the DOL. In a decision dated November 18, 1992, the DOL denied his claim. *Id.* Various appeals and decisions ensued. On July 13, 2006, the DOL Employees Compensation Board issued a decision awarding him some benefits and remanding the case to the Office of Workers' Compensation Programs for further development consistent with the decision. *Id.*

Appellant appears to be dissatisfied with the DOL's decision in this case. On July 20, 2006, Eric Petersen wrote a letter to the DOI Board of Contract Appeals asking for a clarification of the contract.¹ In this letter he states, "BLM has done nothing wrong." He also states, "What is needed is a statement from the Board that all Federal Contracts have to be honored when signed by a contracting officer." Mr. Petersen appears to want this Board to correct the decision of the DOL. The record is unclear regarding Eric Petersen's position with Petersen Equipment or whether he even represents Petersen Equipment in this matter.

Discussion

First, it is not clear from the record whether Eric Petersen has filed this appeal on his own behalf or as a representative of appellant. If Eric Petersen does not represent appellant in this matter, appellant has not brought a claim to this Board, and the case must be dismissed. Second, the submission of a claim to the contracting officer is a prerequisite to this Board's jurisdiction under the Contract Disputes Act, 41 U.S.C. §§ 601-613. Since no claim has been submitted to the contracting officer, this Board lacks jurisdiction over appellant's claim under the Contract Disputes Act, 41 U.S.C. § 607 (d). *Reflectone, Inc. v. Dalton*, 60 F.3d 1572, 1575 (Fed. Cir. 1995) (*en banc*).

Finally, even if appellant were to submit a claim to the contracting officer, the Board would still lack jurisdiction. The claim here appears to be a claim for workers' compensation under the Federal Employees Compensation Act (FECA), 5 U.S.C. Chapter 81. Only the Secretary of Labor has jurisdiction to review an award or denial of

¹ The Board is interpreting this letter to be Petersen Equipment's appeal letter.

compensation under the Act. 5 U.S.C. § 8128(a). Furthermore, the action of the Secretary of Labor is final and conclusive and is not subject to review by another individual or by a court. 5 U.S.C. § 8128(b). This section of the FECA is clear and unambiguous and deprives this Board of jurisdiction over the appeal. *Lindahl v. Office of Personnel Management*, 470 U.S. 768, 780 n.13 (1985). The Federal Circuit has routinely held that this section of the FECA bars judicial review of DOL compensation decisions. *See Pueschel v. United States*, 297 F.3d 1371, 1374 (Fed. Cir. 2002).

Appellant's claim concerns the hours of pay and the rate of hourly pay that Eric Petersen is entitled to as an employee of a contractor who had a contract with the DOI. This Board has no jurisdiction over such claims.

Decision

Respondent's motion to dismiss is granted. The appeal is **DISMISSED FOR LACK OF JURISDICTION**.

R. ANTHONY McCANN
Board Judge

We concur:

ROBERT W. PARKER
Board Judge

CATHERINE B. HYATT
Board Judge